



DC Area Teams GMS Constraints: West Area 0004

Schools GMS Constraints: Our Lady's RC Primary 0213

2.2 Policies:

CYGP1 -Design

CGP15A - Development and Flood Risk

CYGP4A - Sustainability

CYH4A - Housing Windfalls

CYNE8 - Green corridors

CYNE6 - Species protected by law

CYL1C - Provision of New Open Space in Development

CYED4 - Developer contributions towards Educational facilities

### **3.0 CONSULTATIONS**

INTERNAL:-

3.1 Environmental Protection Unit raise no objection to the proposal subject to any permission being conditioned to require remediation of any land found to be contaminated and to protect the amenity of neighbouring properties during the construction process.

3.2 Lifelong Learning and Leisure raise no objection to the proposal subject to commuted sums being paid in lieu of the provision of off-site open space.

3.3 Design, Conservation and Sustainable Development express concerns in respect of the proposed landscape treatment of the site boundaries and its impact upon the setting of Hob Moor.

3.4 Highway Network Management raise no objection to the layout of the proposal as amended subject to the payment of commuted sums in respect of Sustainable Transport Measures and amendments to off-site Traffic Regulation Orders.

3.5 Housing Services raise no objection to the proposal subject to measures being put in place to ensure that the affordable element of the scheme remains so in perpetuity.

3.6 Strategic Flood Risk Management express concern in respect of the level of information submitted with the scheme in terms of surface water drainage. A detailed drainage scheme has subsequently been submitted with the proposal

3.7 Education Services raise no objection in principle to the proposal subject to the payment of a commuted sum in lieu of the provision of primary school places at Hob Moor Primary which is over subscribed.

EXTERNAL:-

3.8 The Ainsty Internal Drainage Board raise no objection in principle to the proposal but express concern in relation to the level of information provided in terms of surface water drainage.

3.9 Yorkshire Water Services Limited raise no objection to the proposal but express concern in relation to the level of information provided in terms of surface water drainage.

3.10 The Safer York Partnership raise no objection to the proposal.

3.11 The York Natural Environment Panel express concerns in respect of the over-development of the site and the impact upon the setting of Hob Moor.

3.12 The Friends of Hob Moor object to the proposal on the grounds that it would seriously erode the setting of Hob Moor as well as causing serious harm to the nearby locally designated nature reserve by altering the pattern of surface water drainage and introducing domestic pets who will harm small mammals and ground nesting birds.

3.13 The Kingsway Area Residents Association object to the proposal on the grounds that it would result in over-development of the site, cause an unacceptable impact in terms of traffic upon adjoining side roads, give rise to unacceptable pressure upon nearby schools and other services, would be unsustainable in transport terms and would cause unacceptable harm to the setting of Hob Moor.

3.14 Eleven letters of objection have been received from neighbouring residents. The following is a summary of their contents:-

\* Concern in respect of the impact of construction noise and traffic on adjoining properties;

- \* Concern in respect of the impact of the proposal upon neighbouring services such as schools;
- \* Concern that the proposal would amount to over-development of the site;
- \* Concern that the proposal would lead to a harmful impact upon the setting of Hob Moor;
- \* Concern that the proposal would lead to an increase in crime and anti-social behaviour in the locality;
- \* Concern that the proposal would lead to a harmful impact upon wildlife in the adjoining nature reserve.

## **4.0 APPRAISAL**

### **KEY CONSIDERATIONS:-**

#### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- \* Impact upon the setting of Hob Moor;
- \* Impact upon the locally designated nature reserve;
- \* Over development of the site;
- \* Impact upon the local surface water drainage network;
- \* Impact upon the safety and convenience of local highway users;
- \* Section 106 Issues;
- \* Sustainability.

### **STATUS OF THE DRAFT LOCAL PLAN:-**

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in arriving at Development Management decisions although it is considered their weight is limited except where in accordance with the National Planning Policy Framework.

### **PLANNING POLICY CONTEXT:-**

4.3 Central Government Planning Policy as outlined in paragraph 49 of the NPPF urges that Local Planning Authorities consider all applications for residential development in the context of the presumption in favour of sustainable development. Planning for new housing development is outlined in paragraph 50 of the NPPF should at the same time be based upon the size, type, tenure and range indicated by local needs. At the same time paragraph 118 cautions against approving developments that would result in the loss of important wildlife habitat.

## IMPACT UPON THE SETTING OF HOB MOOR:-

4.4 Policy H4a) of the York Development Control Local Plan sets a firm policy presumption in favour of new residential development which is within the urban area and is currently derelict, vacant or under-used, the development is of an appropriate scale and density to surrounding development and it would not have a detrimental impact on existing landscape features. The application site comprises a former primary school that was constructed in the 1950s on site virtually surrounded by Hob Moor. There is a substantial degree of mature landscaping surrounding site both within and outside of the site boundary. The proposal for the erection of 56 houses would significantly change the character of and extent of built form on the site over and above that existing, although it would be characteristic of the pattern of development of the residential area to the north and north west. The overall height of development would not however exceed that existing and the pattern of scale and massing would reflect that of the nearby residential properties to the north west.

4.5 Hob Moor comprises an urban common protected by Private Act of Parliament incorporating a locally designated Nature Reserve seeking to protect ground nesting birds. An important element of its character are the long sweeping views to the north and north east across the grassland towards the City Centre. The application site with its mature landscape fringes is of significant importance in securing those views and the setting of the Moor. The proposed development would potentially have a significant visual impact, and in order to minimise that impact the existing boundary treatment would need to be secured and reinforced where possible. The applicant has agreed to in part undertake this by replacing the existing steel security fence surrounding the site with a more acceptable green powder-coated fence. At the same time the proposed dwellings have been pulled in some 2-3 metres from the eastern boundary which is the most critical in terms of impact. Subject to the submission of a detailed landscape scheme reinforcing the boundary treatment and the inclusion within the Section 106 Agreement for provisions for the holistic maintenance of the existing boundary treatment then the impact of the development upon the setting of Hob Moor is on balance felt to be acceptable.

## IMPACT UPON THE LOCALLY DESIGNATED NATURE RESERVE:-

4.6 Policy NE5a) of the York Development Control Local Plan sets a firm policy presumption that development that would have an adverse effect upon a Local Nature Reserve will only be permitted where the reasons for development clearly outweigh the substantive nature conservation value of the site. Hob Moor contains an area of habitat for ground nesting birds and comprises damp grassland managed by periodic seasonal grazing of cattle. Concern has been expressed in regarding the impact of the proposal in two respects; the potential for alteration to the pattern of surface water drainage and also the introduction of increased numbers of domestic animals in to the area.

The provision of an additional 41 affordable units would have a significant impact upon the wider need in the City for Affordable Housing. In terms of drainage any impact can be minimised by conditioning any permission to require attenuation of flows from the new properties before it enters the existing surface water sewer network. In addition, it is not felt that the consequent increase in domestic animals would have a significant impact upon the local wildlife habitat. Therefore when balance against the wider benefits of the scheme, Policy NE5a) of the Draft Local Plan can therefore be complied with.

#### OVER-DEVELOPMENT OF THE SITE:-

4.7 Concern has been expressed in terms of the proposed 56 properties being an over-development of the site with consequent impacts upon the level of amenity space available for potential occupiers along with the visual amenity of the wider street scene. Central Government Planning Policy in paragraph 17 of the NPPF "Core Planning Principles" does indeed call for the provision of an acceptable standard of amenity for new and existing occupiers of properties. The submitted details do however clearly demonstrate that the site can be developed successfully with the minimum acceptable separation distances between properties with adequate garden and amenity space available for potential occupiers. The pattern of density is also entirely consistent with that prevailing within the residential development to the north and north-west. The proposal is not therefore felt to be an over-development of the site.

#### IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE PATTERN:-

4.8 Policy GP15a) of the York Development Control Local Plan sets out a requirement that developers must satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect whilst ensuring that the site can be developed, serviced and occupied safely. The site lies within Flood Zone 1 and is therefore at the lowest deemed risk of flooding; however the habitat of the adjacent Hob Moor is in large measure dependent upon the existing surface water drainage conditions being maintained. The application as submitted illustrated surface water drainage by soak-away which would have lead to potential increases in the levels of water draining into the Moor. The subsequent details submitted along with the comments of statutory consultees support the principle of surface water drainage to the existing sewer network with suitable attenuation. This is supported subject to any permission being conditioned to require the submission and approval of a full drainage scheme. The terms of Policy GP15a) of the Draft Local Plan can therefore be complied with.

## IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS ON THE LOCAL NETWORK:-

4.9 Concern has previously been expressed in relation to the impact of the proposal upon traffic conditions on the local highway work. The application site is accessed via a narrow and winding network dating to the laying out of the housing development in the early 1950s when conditions were not as they are now. The scheme has however been subject to a detailed Transport Assessment and subject to the appropriate modification of Traffic Regulation Orders and the provision of means to encourage sustainable transport then it is felt that the adjoining network could absorb the estimated traffic flows coming from the site without undue harm to local amenity and the safe and free flow of traffic on the local network.

## SECTION 106 ISSUES:-

4.10 Attention has already been drawn to the need to secure the future of the 41 affordable units as affordable in perpetuity via a Section 106 Agreement along with the management of the landscaped boundary with Hob Moor and the necessary highway works on the adjoining network. Concern has also been expressed in relation to the pressure of the proposed development on local services notably the Local Primary School and local sports facilities. Policy ED4 of the York Development Control Local Plan sets out a clear requirement in the case of significant residential development for the payment of commuted sum financial contributions to underwrite the provision of new school places where existing schools are over-subscribed. The Primary School catchment covering the site Hob Moor is significantly over-subscribed and as a consequence a commuted sum payment of £167,779 is sought in respect of this site which may be secured by the means of a Section 106 Agreement. At the same time Policy L1c) of the York Development Control Local Plan sets out a clear requirement in the case of residential development for the payment of commuted payments for the provision of open space required in connection with the development. In the current case the requirement would be for a payment of £82,576 which can be secured by the means of a Section 106 Agreement.

4.11 At a late stage of the application process the applicant has indicated a willingness to agree to the payments via a section 106 agreement. It is therefore recommended that Delegated Authority be given to approve the application subject to a Section 106 Agreement in order that it may be formulated based on the heads of terms and sums set out above. If the Agreement is not completed within a reasonable timescale, and bearing in mind the Council's obligations to determine applications expediently, the application would be referred back to Committee with a recommendation of refusal.

## SUSTAINABILITY:-

4.12 Paragraph 49 of the NPPF sees the development of new housing as a key element of the presumption in favour of Sustainable Development intrinsic to Central Government Planning Policy. Policy GP4a) of the York Development Control Local Plan seeks to apply the principles of sustainable development to new construction including a requirement for new residential development to have a minimum of 10% of its energy needs derived from renewable sources. The current proposal seeks to achieve a BREEAM Code Level 3 in terms of its Sustainability and makes use of previously developed land. The applicant is preparing a further statement to demonstrate the sustainability credentials of the site. Subject to receipt of this document, it is recommended that achievement at least of BREEAM Code Level 3 (or equivalent) be conditioned as part of any permission for prior approval.

## 5.0 CONCLUSION

5.1 Concern has been expressed in terms of the impact of the proposed development upon the setting of the Moor and the design has been slightly amended to safeguard the eastern boundary of the site. Providing adequate arrangements are put in place to safeguard the boundary of the site with Hob Moor and secured by means of a Section 106 Agreement with additional boundary planting secured by condition, then on balance the proposal is felt to be acceptable in terms of visual impact.

5.2 Concern has also been expressed that the proposal would represent an over-development of the site however; the pattern of density is compatible with housing development to the north and north-west as is the pattern of scale and massing. The standard separation distances can also be complied with.

5.3 Concern has been expressed in terms of the proposed surface water drainage from the site particularly in terms of its relationship to the nearby Local Nature Reserve. However, if any permission is conditioned to require that any surface water discharges are suitably attenuated and discharged to the existing surface water sewer network then it is felt that an acceptable arrangement can be achieved.

5.4 There are requirements in terms of commuted sums related to Highway Works, Educational Provision and Open Space for £261,315 and overall it is felt that the proposal is acceptable in planning terms and approval is therefore recommended subject to the commuted sums being included with a Section 106 Agreement, and subject to receipt of further details regarding sustainability measures incorporated into the development.

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing Ref:- 187/37(02) 003 Rev D; 187/37(02)202; 187/37(02)201; 187/37(02)104; 187/37(02)103; 187/37(02)102; 187/37(02)101; 187/37(02)203; 187/37(02)211 and 187/37(02)211 Date Stamped 21st August 2013

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 VISQ8 Samples of exterior materials to be app -

4 VISQ7 Sample panel ext materials to be approv -

5 VISQ4 Boundary details to be supplied -

6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A,B,C,E, F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of safeguarding the setting of Hob Moor and the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

7 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees , shrubs and other planting This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

8 Trees shown as being retained on the approved plans shall be protected in accordance with BS: 5837 Trees in relation to construction.

Before the commencement of development, including demolition, building operations or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing; phasing of works; site access for demolition/construction and methodology; type of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading); parking arrangements for site vehicles; locations for storage of materials; locations of utilities. Details of existing and proposed levels and surfaces shall also be included.

The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation or deep-digging, parking or manoeuvring of vehicles; there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, or pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or make a significant contribution to the amenity of the area.

9 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details. Such details shall allow for attenuation of surface water flows to 70% of the existing levels with allowance made for no on-site retention of water in the event of a 1 in 30 year severe weather event and no discharge to adjacent properties in the case of a 1 in 100 year event.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

10 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 8.3 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level.

Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

11 No building work shall take place until details have been submitted to and approved in writing by the Local Planning Authority, to demonstrate how the applicant will provide, from renewable sources, 5% of the development's total energy demand on land within the control of the applicant. The development shall not be occupied until these works have been carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority

Reason: In the interests of sustainable development

12 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

13 HWAY1 Details roads, footpaths, open spaces req. -

14 HWAY7 Const of Roads & Footways prior to occup -

15 HWAY18 Cycle parking details to be agreed -

16 HWAY19 Car and cycle parking laid out -

17 HWAY40 Dilapidation survey -

18 The development hereby permitted shall not come into use until the following highway works: provision of a traffic calming scheme on Winsor Garth incorporating managed on-street parking facilities and provision of a raised plateau crossing point together with associated signing and lining at the interface between Winsor Garth, the internal site access road and the Hob Moor cycle route (which definition shall include works associated with any Traffic Regulation Order required as a result of the development) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users.

19 All demolition and construction works and ancillary operations which are audible beyond site boundary or at the nearest noise sensitive dwelling, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08:00 to 18:00

Saturday 09:00 to 13:00

Not at all on Sundays and Bank Holidays.

REASON: To protect the amenities of adjacent residents

20 All machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to their specification and at all times the noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities, shall be minimised in accordance with the guidance provided in British Standard 5228 (2009) Code of Practice; 'Noise Control on Construction and Open Sites'.

REASON: To protect the amenities of adjacent residents

21 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - ground waters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

24 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours

25 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the residential amenity of Neighbouring Properties and to Secure Compliance with Policy GP1 of the York Development Control Local Plan.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. CONTROL OF POLLUTION ACT 1974:-**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers' instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

## 2. HIGHWAY WORKS:-

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

## 3. UTILITIES:-

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

#### 4. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Amendments to the Site Layout to Reflect Landscape Concerns.
- ii) Amendment of the Site Layout to provide a satisfactory sewer easement.
- iii) Provision of an amended surface water drainage scheme

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